

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

HOWARD UNIVERSITY,

*Plaintiff-Counterclaim Defendant,*

- against -

LARRY BORDERS and  
VIRGINIA BORDERS,

*Defendants-Counterclaim Plaintiffs,*

*CENTRALIA MADONNA,*  
A DRAWING.

*Defendant-in-rem.*

No. 20-CV-4716 (LGL)

**DECLARATION OF PAUL COSSU**

I, Paul Cossu, hereby declare under penalty of perjury as follows:

1. I am a member of Olsoff | Cahill | Cossu LLP, counsel for Defendants-Counterclaim Plaintiffs Larry Borders and Virginia Borders (together, the “Borders”). I make this declaration in opposition to the motion for summary judgment of Plaintiff-Counterclaim Defendant Howard University (the “University”). I am familiar with the facts set forth below.

2. Attached as **Exhibit A** is a true and correct copy of the Complaint, ECF No. 1, filed by the University on June 19, 2020.

3. Attached as **Exhibit B** is a true and correct copy of the Borders’ Answer and Counterclaims, ECF No. 6, filed by the Borders on June 22, 2020.

4. Attached as **Exhibit C** is a true and correct copy of the University’s Answer to the Counterclaims, ECF No. 17, filed by the University on July 30, 2020.

5. Attached as **Exhibit D** is a true and correct copy of excerpts from the October 19, 2020 Deposition of Virginia Borders (referenced in the Borders' Rule 56.1(b) Statement as "V. Borders Tr.").

6. Attached as **Exhibit E** is a true and correct copy of excerpts from the October 20, 2020 Deposition of Larry Borders (referenced in the Borders' Rule 56.1(b) Statement as "L. Borders Tr.").

7. Attached as **Exhibit F** is a true and correct copy of excerpts from the October 30, 2020 Deposition of Dr. Lisa Farrington, the University's designated Fed R. Civ P. 30(b)(6) witness (referenced in the Borders' Rule 56.1(b) Statement as "Farrington Tr.").

8. Attached as **Exhibit G** is a true and correct copy of excerpts from the November 12, 2020 Deposition of Katharine Richardson (referenced in the Borders' Rule 56.1(b) Statement as "Richardson Tr.").

9. Attached as **Exhibit H** is a true and correct copy of excerpts from the November 16, 2020 Deposition of Scott Baker (referenced in the Borders' Rule 56.1(b) Statement as "Baker Tr.").

10. Attached as **Exhibit I** is a true and correct copy of excerpts from the November 19, 2020 Deposition of Elizabeth Pisano (referenced in the Borders' Rule 56.1(b) Statement as "Pisano Tr.").

11. Attached as **Exhibit J** is a true and correct copy of excerpts from the February 18, 2021 Deposition of Russell Panczenko (referenced in the Borders' Rule 56.1(b) Statement as "Panczenko Tr.").

12. Attached as **Exhibit K** is a true and correct copy of excerpts from the "Permanent Collection Valuation Gallery of Art," prepared by Dr. Carter by 1964, HOWARD00570-606

(referenced in the Borders' Rule 56.1(b) Statement as "1964 Carter Inventory"), previously marked as Borders' Deposition Ex. D.

13. Attached as **Exhibit L** is a true and correct copy of excerpts from the "revised report concerning the Valuation of the Permanent Collection of the Howard University Gallery of Art," prepared by Dr. Carter in 1971, HOWARD00608-642 (referenced in the Borders' Rule 56.1(b) Statement as "1971 Carter Inventory"), previously marked as Borders' Deposition Ex. E.

14. Attached as **Exhibit M** is a true and correct copy of excerpts from the "Holdings of the Howard University Gallery of Art," prepared by Dr. Carter by 1976, HOWARD00001-123 (referenced in the Borders' Rule 56.1(b) Statement as "1976 Carter Inventory"), previously marked as Borders' Deposition Ex. F.

15. Attached as **Exhibit N** is a true and correct copy of an excerpt of the Annual Report of the College of Fine Arts, Howard University (1968-69) (referenced in the Borders' Rule 56.1(b) Statement as "1968-69 Annual Report"), previously marked as Borders' Deposition Ex. N.

16. Attached as **Exhibit O** is a true and correct copy of an excerpt of the Annual Report of the College of Fine Arts, Howard University (1973-74) (referenced in the Borders' Rule 56.1(b) Statement as "1973-74 Annual Report"), previously marked as Borders' Deposition Ex. O.

17. Attached as **Exhibit P** is a true and correct copy of an excerpt of the Annual Report of the College of Fine Arts, Howard University (1980-81) (referenced in the Borders' Rule 56.1(b) Statement as "1980-81 Annual Report"), previously marked as Borders' Deposition Ex. P.

18. Attached as **Exhibit Q** is a true and correct copy of an excerpt of the Annual Report of the College of Fine Arts, Howard University (1966-67), (referenced in the Borders' Rule 56.1(b) Statement as "1966-67 Annual Report") previously marked as Borders' Deposition Ex. Q.

19. Attached as **Exhibit R** is a true and correct copy of an excerpt of the Annual Report of the College of Fine Arts, Howard University (1947-48), HOWARD00931-32 (referenced in the Borders' Rule 56.1(b) Statement as "1947-48 Annual Report").

20. Attached as **Exhibit S** is a true and correct copy of correspondence in 1973 between (a) the Barnett-Aden Gallery and Charles White, and (b) Benjamin Horowitz, on behalf of Charles White, and the Barnett-Aden Gallery, which has been recently digitized by the Smithsonian Institution's Archives of American Art, *available at* <https://www.aaa.si.edu/collections/charles-white-papers-9350/series-2/box-1-folder-28>.

21. Attached as **Exhibit T** is a true and correct copy of a document titled "Howard University Gallery of Art Inventory of Prospective High Value Work for Sotheby's Appraisal," SOTH00661-670. This document was not produced by the University, and was previously marked as Borders Deposition Ex. G.

22. Attached as **Exhibit U** is a true and correct copy of SOTH00749-752, which identifies artworks in the University's collection. This document was not produced by the University, and was previously marked as Borders Deposition Ex. H.

23. Attached as **Exhibit V** is a true and correct copy of a document titled "Property of Howard University – Retail Replacement Valuation for Insurance Purposes." This document was produced by Sotheby's without a Bates-stamp, but was not produced by the University, and was previously marked as Borders Deposition Ex. V.

24. Attached as **Exhibit W** is a true and correct copy of a document titled "Property of Howard University – Auction Estimate Listings." This document was produced by Sotheby's without a Bates-stamp, but was not produced by the University, and was previously marked as Borders Deposition Ex. W.

25. Attached as **Exhibit X** is a true and correct copy of the Consignment Agreement, dated February 26, 2020, between Sotheby's and the Borders, BORDERS0072-84.

26. Attached as **Exhibit Y** is a true and correct copy of the "Sotheby's Cataloguing Preview" for the Artwork, SOTH00029.

27. Attached as **Exhibit Z** is a true and correct copy of a May 29, 2020 email between Sotheby's and the Borders, BORDERS0154-55.

28. Attached as **Exhibit AA** is a true and correct copy of a June 2, 2020 email from the University to Sotheby's, HOWARD00539, previously marked as Borders' Deposition Ex. AA.

29. Attached as **Exhibit BB** is a true and correct copy of a June 1, 2020 email between Sotheby's and the Borders, BORDERS0156-57.

30. Attached as **Exhibit CC** is a true and correct copy of a June 18, 2020 email from the Borders' counsel to the University.

31. Attached as **Exhibit DD** is a true and correct copy of a June 19, 2020 email from the Borders' counsel to the University.

32. Attached as **Exhibit EE** is a true and correct copy of the University's Initial Disclosures, previously marked as Borders' Deposition Ex. A.

33. Attached as **Exhibit FF** is a true and correct copy of the Fed. R. Civ. P 30(b)(6) Notice of Deposition to the University.

34. Attached as **Exhibit GG** is a true and correct copy of the Notice of Deposition of Lisa Jones.

35. Attached as **Exhibit HH** is a true and correct copy of excerpts from a series of emails between the Borders' counsel and the University's counsel concerning requests to schedule the deposition of Lisa Jones.

36. Attached as **Exhibit II** is a true and correct copy of an October 6, 2020 email from the University's counsel to the Borders' counsel concerning the production "of the prior Gallery inventories."

37. Attached as **Exhibit JJ** is a true and correct copy of an April 27, 2021 Order from the United States District Court for the Eastern District of Michigan, denying Dr. Boyd's motion to quash his deposition, and ordering him to appear for a two-hour remote deposition within 30 days.

38. Attached as **Exhibit KK** is a true and correct copy of a document titled "Art Sale and Transfer Agreement" that was filed in *Reif v. Nagy*, Index No. 161799/2015, NYSCEF No. 195, identifying the provenance and prior sales of the artwork at issue in that action on Page 6.

39. Attached as **Exhibit LL** is a true and correct copy of J.D. Kibler's death certificate.

40. During the course of discovery, the University did not produce any inventories, appraisals, or other documents that were either sent to, or received from, Melanin & Company.

Executed on June 28, 2021



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Paul Cossu